

**United States District Court
District of Rhode Island**

In re: Kugel Mesh Hernia Products Liability Litigation
Multidistrict Litigation (MDL 1842)

MDL DOCKET NO. 07-1842-ML
All cases

An open session conference was held on July 29, 2011. The conference was transcribed. The Court met with counsel and discussed the items listed on the agenda (docket #3595).

Update on settlement status
Process for future settlement discussions

Defense counsel reported that there are currently five different resolutions with 90-100 law firms. Two other negotiations did not result in resolutions. On a parallel track, two cases have been tried and 1000s of cases have been reviewed. Defendant has publicly stated that the majority of claims have been settled and that it is continuing to negotiate with other law firms. Defendant has also authorized its counsel to proceed with negotiations with law firms interested in resolving claims by settlement.

Remaining cases currently unresolved

The Court advised present counsel that it views its role as bringing every case to resolution. The Court anticipates issuing an order setting discovery deadlines for cases selected by counsel for both sides and is prepared to schedule trials for the last two weeks of January 2012 and the first two weeks of February 2012. The Court urged counsel present to consider their inventory and either contact defense counsel for resolution or prepare to litigate. To the extent cases cannot be resolved, the Court advised counsel that it is looking for a list of cases to commence case-specific discovery to ready the cases for trial this winter.

Discovery and trial selection for unresolved cases

Defense counsel will coordinate with plaintiffs' liaison counsel to submit to the Court a list of selected cases that have not been resolved and to prepare an order for discovery. Plaintiffs' liaison counsel reported that, in a pre-meeting with other plaintiffs' counsel, it was determined that some law firms are interested in resolving their cases with defendant, whereas others are intent on pursuing litigation. Plaintiffs' liaison counsel expects some input from law firms intending to proceed to trial to assist in the trial selection process.

Defense counsel advised those present that any inquiry regarding resolution should be directed to Eric Gladbach, egladbach@reedsmith.com or Jacqueline Seidel, jseidel@reedsmith.com, copy to John Hooper, jhooper@reedsmith.com.

For plaintiffs' counsel concerned about preserving a plaintiff's treating physician's testimony, the Court suggested that plaintiffs' liaison counsel serve as a clearinghouse for such requests in order to present them in a coordinated fashion and, whenever possible, resolve them amicably. The Court noted that the current order staying such discovery allowed for an exception only in extreme cases.

Status of deficiency letters regarding Plaintiff fact sheets

Defense counsel reported that 793 letters were sent out to plaintiffs. 167 responses were received that resulted in curing the deficiency that was the subject of the letter. No fact sheet was ever received from approximately 60 plaintiffs and defense counsel will file motions to dismiss those cases. Approximately 500 of these plaintiffs are now included in the settlement. Only those plaintiffs who have not responded at all will be subject to a motion to dismiss their claims.

Motions to Remand

Four motions to remand have been filed. Three of those motions were denied by the Court and one relates to a case that has now been settled.

Constitution of Plaintiffs' Steering Committee

Plaintiffs' liaison counsel reported that the steering committee is still active and is maintaining documents and liability material. Several firms with larger inventories have inquired informally whether they can join the committee. Anyone wishing to join the steering committee is welcome.

Common Benefit Fund

Four interest-bearing accounts have been set up in Rhode Island, two for the state court and two for federal court, consistent with the respective courts' orders. Thirteen cases have now been resolved and funded. As a result, common benefit assessments have been paid into the accounts. As settlements are achieved and funded, appropriate distributions will be made into the accounts.

Next Meeting

A date for a future meeting has not yet been set.